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AMCONSUL HONG KONG PRIORITY  
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UNCLAS STATE 021472

PLEASE PASS TO LABOR REPORTING OFFICERS

E.O. 12958: N/A

TAGS: EIND ELAB ETRD PHUM SOCI

SUBJECT: FOLLOW-UP REQUEST FOR INFORMATION ON FORCED LABOR  
AND CHILD LABOR IN THE PRODUCTION OF GOODS FOR MANDATORY  
CONGRESSIONAL REPORTING REQUIREMENTS.

REF: A. REF #1 STATE 43120  
      1B. REF #2 STATE 01730

11. This is an action request. Please see summary  
paragraph (para. 2) and paras. 9 through 13 for specific  
information requested.

12. Summary: This is a follow-up request for information  
(see refetel #1) on the use of forced labor and exploitative  
child labor in the production of goods. DOL will use the  
information to respond to mandates set forth in the  
Trafficking Victims Protection Reauthorization Act of 2005,  
Section 105(b). Responses are requested by April 16, 2009.

13. Please note that for the posts listed below, this  
follow-up request is not in reference to the primary  
reporting country, but to other countries or territories  
covered by Post, as follows: Rabat(for Western Sahara),  
Antanarivo (for Comoros), Hong Kong (for Macau), Colombo (for  
both Sri Lanka and Maldives), Dakar (for Guinea-Bissau),  
Dubai (for Iran), Jerusalem (for the Palestinian  
Territories), Libreville (for Sao Tome and Principe), New  
Delhi (for Bhutan), Port Louis (for Seychelles), Port Moresby  
(for Solomon Islands), and Seoul (for both South Korea and  
North Korea).

14. Responses are requested from all addressees. Posts with  
no record of child labor or forced labor in the production of  
goods are requested to indicate this in a response cable to  
DOL, DRL, and G/TIP.

15. Background: The Trafficking Victims Protection

Reauthorization Act of 2005 (TVPRA), Section 105(b), directed ILAB to initiate additional activities to monitor and combat forced labor and child labor in foreign countries.

Among these was the specific requirement to develop and make available to the public a list of goods from countries that ILAB has reason to believe are produced by forced labor or child labor in violation of international standards. ILAB's statutory deadline for publication of this list (per the TVPRA of 2008) is January 15, 2010. For more information on the TVPRA requirements, see reftel #1. For answers to common question about this mandate, see DOL's Frequently Asked Questions at [http://www.dol.gov/ilab/programs/ocft/pdf/TVP\\_RA-FAQ.pdf](http://www.dol.gov/ilab/programs/ocft/pdf/TVP_RA-FAQ.pdf).

¶16. Pursuant to this mandate, in December 2007 DOL published a set of procedural guidelines in the Federal Register that ILAB has followed in developing its list of goods. The guidelines set forth the criteria by which information is evaluated; establish procedures for public submission of information to be considered by ILAB; and lay out the process ILAB will follow in maintaining and updating the list after its initial publication. The Federal Register Notice is available under the Child Labor Tab on the Labor Diplomacy Forum on-line community: [www.intelink.gov/communities/state/labordiplo](http://www.intelink.gov/communities/state/labordiplo) macy, and at: [http://edocket.access.gpo.gov/2007/pdf/E7-250\\_36.pdf](http://edocket.access.gpo.gov/2007/pdf/E7-250_36.pdf).

¶17. In compiling its draft list, ILAB has gathered and analyzed research from a variety of sources including comprehensive desk reviews and in-country research carried out by ILAB contractor; data and information from ILAB technical assistance project grantees overseas; a public request for information published in the Federal Register (see the same FRN referenced in para. 6); a Public Hearing held at DOL on May 28, 2008 (transcript available at [http://www.dol.gov/ilab/programs/ocft/pdf/200\\_80423g.pdf](http://www.dol.gov/ilab/programs/ocft/pdf/200_80423g.pdf)); extensive ILAB staff research; and reporting cables received from posts in response to reftel #1. These reporting cables, when received, have been valuable sources of information for DOL.

¶18. Note to Beirut, Dakar, Lima, Managua, Mexico City, New Delhi, and Seoul: These posts may recall reftel #2 of January 7, 2009, which requested comment from selected posts on DOL's draft list of goods. That list was an initial draft, and DOL expects to add and/or remove goods on an ongoing basis per our procedural guidelines. Thus, new reporting from these posts, per the action request in para. 9, continues to be useful and timely.

¶19. Action request: Posts are requested to provide current information on forced labor and exploitative child labor in the production of goods. Responses are requested by April 16, 2009. Posts are requested to submit all replies via unclassified cable, ACTION Secstate and Department of Labor, slugged DOL/ILAB for Leyla Strotkamp, DRL/ILCSR for Mark Mittelhauser and G/TIP for Steve Steiner. DOL is unable to cite classified or SBU cables.

¶110. Posts are requested to contact appropriate host government officials; international organizations such as the International Labor Organization (ILO); research institutions and universities; NGOs and worker organizations; and other local/national organizations to gather information. Posts are also encouraged to contact USG agency counterparts (e.g., USAID, DHS/Immigration and Customs Enforcement (ICE) attaches, and others). Posts may wish to communicate to interlocutors that the impetus for this request was the Trafficking Victims Protection Reauthorization Act of 2005, Section 105 (available at <http://www.state.gov/g/tip/rls/61106.htm>), in which Congress mandated that DOL produce a list of goods which the Bureau of International Labor Affairs has reason to believe are produced with forced labor or child labor in violation of international standards. This will also be helpful to DOL in fulfilling its mandate, as directed by Congress, to provide information regarding trafficking in persons for the purpose of forced labor to the Office to

Monitor and Combat Human Trafficking of the Department of State for inclusion in the Trafficking in Persons Report required by Section 110(b) of the TVPA of 2000, as well as to consult with other departments and agencies of the United States Government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.

**¶11. Information requested:** Information on forced labor and exploitative child labor in the production of goods should be organized by good, and when possible, the following format should be used:

- Good

Please ensure that goods meet DOL's definition; see para. **¶17.** I LAB is interested only in information related to the production of goods and is not requesting information on forced labor or exploitative child labor in services such as domestic work, construction, portering, and commercial sexual exploitation.

- Type of exploitation found in the production of the good

For example, forced labor (and if possible, type such as debt bondage), exploitative child labor, and/or both. Information should meet I LAB's established definitions of these terms (see paras. 15 - 17 for definitions). Information about child labor that is not exploitative, or adult labor that is not forced, per I LAB's definitions, should not be included.

- Sources of information and years

Please list sources of information, whether written sources or interviews. Written sources should preferably be studies carried out using reliable, sound research methodologies, from sources that have a reputation for accuracy and objectivity. In gathering information from NGOs and other local/national organizations, posts should attempt to confirm these organizations, accuracy and objectivity before submitting information to DOL. If sources do not wish to be named, they may be listed as credible NGO, credible government source, etc. Information should be no more than 7 years old at the time of receipt. The most current information should generally be given priority, and information older than 7 years should generally not be reported to DOL.

- Narrative

Narrative should include any available, credible information on the nature and conditions of the forced labor or exploitative child labor used in the production of the good. To the extent possible and applicable please provide specific information on: types of work performed; working conditions; age(s), gender(s), and ethnic backgrounds of workers; how they came to be involved in the situation, including instances of trafficking; physical and psychological risks (abuse, dangerous working conditions, threats); debt arrangements with the employer; captivity/freedom to leave workplace; regions/locations where they work; how long they have been in the situation; estimated numbers of people in the situations. DOL prefers information that can be corroborated, so please provide statements about levels of corroboration. For instance, two reliable written sources and two NGO interviews provided evidence of forced adult labor being used in the harvesting of corn.

- Incidence

DOL is particularly interested in goods where the evidence warrants a determination that the incidence of forced labor or exploitative child labor in the production of the good is significant in the country. Information that

relates only to a single facility or that indicates an isolated incident of exploitative child labor or forced labor should be reported, but post should indicate that the incident was isolated and reports of wider incidence could not be found.

- Host government, industry, or NGO efforts specifically designed to combat forced labor of adults or children in the production of goods

In gathering this information, DOL is particularly interested in efforts that have been proven to significantly reduce if not eliminate forced labor in the production of the particular good in question. Please note that information on efforts to combat other forms of exploitative child labor (other than forced child labor) is not needed, as it is gathered via a separate tasking.

¶12. DOL would also welcome information about goods that may have some indication of forced labor or child labor in their production, but not enough to report on in this tasking. These are goods that would merit further research, and DOL may take such information into account in making decisions about future research funding. If there are such goods, please provide this information in a separate paragraph.

¶13. When possible, please provide copies of source materials to DOL. If such materials are available, please provide internet links, fax them, or pouch them to: Charita Castro/Leyla Strotkamp, U.S. Department of Labor, 200 Constitution Ave. N.W., Room S-5317, Washington, D.C. 20210, e-mail castro.charita@dol.gov or strotkamp.leyla@dol.gov, fax (202) 693-4830.

¶14. Questions regarding this request may be directed to Charita Castro at (202) 693-4844, e-mail: castro.charita@dol.gov, or Leyla Strotkamp at (202) 693-4813, e-mail: strotkamp.leyla@dol.gov, with CC to DRL and G/TIP.

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DEFINITIONS  
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¶15. For the purpose of this request, the term exploitative child labor follows the definition in ILO Convention 182 of the worst forms of child labor, which comprises:

(A) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

(B) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(C) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in relevant international treaties; or

(D) Any work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. In regard to this final category of worst forms, individual countries have the responsibility to define what additional work activities are likely to harm children. Posts are requested to consult with host governments to determine what kinds of child work activities are considered to be worst forms in the particular country context. Congressional guidance for the report has indicated that the phrase worst forms generally not apply to situations in which children work for their parents on bona fide family farms or holdings. The worst forms of child labor are also distinct from light work. Light work is defined by ILO Convention 138 as work not likely to harm the health or development of young persons, or to prejudice their attendance at school.

¶16. For the purpose of this request, the term forced

labor closely follows the definition in ILO Convention 29: All work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, and includes indentured labor. Forced labor includes work provided or obtained by force, fraud, or coercion, including: (1) By threats of serious harm to, or physical restraint against any person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process.

For purposes of this definition, forced labor does not include work or service required by compulsory military service laws for work of a purely military character; work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; work or service required in cases of emergency; and minor communal services performed by the members of the community in the direct interest of the said community.

The ILO provides further guidance on the meaning of menace of penalty and the voluntary nature of the work or service.

Examples of menace of penalty include the actual presence or credible threat of:

- Physical violence against worker or family or close associates
- Sexual violence
- Threat of) supernatural retaliation
- Imprisonment or other physical confinement
- Financial penalties
- Denunciation to authorities (police, immigration, etc.) and deportation
- Dismissal from current employment
- Exclusion from future employment
- Exclusion from community and social life
- Removal of rights or privileges
- Deprivation of food, shelter or other necessities
- Shift to even worse working conditions
- Loss of social status

Examples of lack of consent to (involuntary nature of) work include:

- Birth/descent into slave or bonded status
- Physical abduction or kidnapping
- Sale of person into the ownership of another
- Physical confinement in the work location in prison or in private detention
- Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages
- Retention of identity documents or other valuable personal possessions

**¶17.** For the purpose of this request, goods means goods, wares, articles, materials, items, supplies, and merchandise. A good can be a raw material (e.g. iron ore), a commodity (e.g. soybeans), a component (e.g. car parts), or a finished product (e.g. the car). DOL is interested not only in goods produced for export, but also in goods extracted/produced for domestic consumption. Sectors such as agriculture or manufacturing are too broad to be included in this request; posts should attempt to obtain more specific information on particular

agricultural commodities or manufactured goods.

¶18. DOL and the Department greatly appreciate Posts,  
continued assistance.

CLINTON